

### **REMARKS**

Applicants have received and reviewed the Final Office Action dated August 6, 2010. Entry and consideration of this Amendment is respectfully requested. By way of response, claims 37, 40, 46, 49, 51-52, 55, 58, 61, 64, 66, and 68 have been cancelled without prejudice or disclaimer. Applicants reserve the right to pursue the cancelled subject matter in a continuing application. Claims 38, 39, 47, 48, 56, 57, 62, and 63 have been amended. Applicants submit the Amendment does not introduce new matter and places the application in condition for allowance.

The Office Action at page 6 acknowledges that claims 29, 30, 32, 35, 36, 41-45, 50, 53, 54, 59, 60, and 67 are allowable. After entry of the Amendment, claims 29, 30, 32, 35, 36, 38, 39, 41-45, 47, 48, 50, 53, 54, 56, 57, 59, 60, 62, 63, and 67 will be pending and in condition for allowance.

### **35 U.S.C. § 112**

Claims 37-40, 46-49, 55-58 and 61-64 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite. Applicants respectfully traverse this rejection.

Claims 38, 47, 56, and 62 have been amended similar to claim 32, which is indicated to be allowable, to recite that the polypeptide has identity to SEQ ID NO:14 that is at least 85%.

Claims 39, 48, 57, and 63 have been amended to incorporate limitations similar to claim 67, which is indicated to be allowable.

Claims 40, 49, 58, and 64 have been cancelled without prejudice or disclaimer.

In view of the foregoing, Applicants submit the claims as amended comply with § 112, second paragraph. Withdrawal of the rejection is respectfully requested.

35 U.S.C. § 102(b)

Claim 68 was rejected under 35 U.S.C. § 102(b) as anticipated by Vaughan-Thomas et al., 2001. Without acquiescing to the rejection and solely for the purpose of advancing prosecution, claim 68 has been cancelled without prejudice or disclaimer. The rejection is therefore moot.

Summary

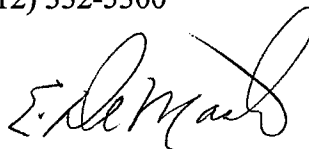
In view of the above amendments and remarks, Applicants submit this Amendment places application in condition for allowance. A Notice of Allowance is respectfully requested. If the Examiner believes a telephone conference would advance the prosecution of this application, the Examiner is invited to telephone the undersigned at the below-listed telephone number.

Please charge any additional fees or credit any overpayment to Merchant & Gould P.C., Deposit Account No. 13-2725.

Respectfully submitted,

MERCHANT & GOULD P.C.  
P.O. Box 2903  
Minneapolis, Minnesota 55402-0903  
(612) 332-5300

Date: November 8, 2010



Eric E. DeMaster  
Reg. No. 55,107

KMK:EED:kf:jrm

**23552**

PATENT TRADEMARK OFFICE